

Appl. No. 10/812,559
Amndt. dated December 7, 2005
Reply to Office Action of November 23, 2005

REMARKS/ARGUMENTS

Claims 1 - 9 are presented for Examiner Hand's consideration.

Claims 10 – 20 have been withdrawn from consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected species. Applicant's attorney, Thomas J. Connelly, in a telephone call with Examiner Hand on November 15, 2005, provisionally elected claims 1 to 9. Applicants hereby affirm this election at this time. However, since generic claim 1 is shown below to be patentably distinct over the cited prior art, Applicants are now entitled to have claims 10 – 20 reconsidered under 37 CFR 1.141.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed November 23, 2005, Examiner Hand rejected claims 1 – 4 under 35 U.S.C. § 102 as allegedly being anticipated and thus unpatentable over U.S. Publication Number 2004/0225271 to Datta et al. Examiner Hand also indicated that claims 5 – 9 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. This rejection is respectfully traversed.

According to patent law, namely 35 U.S.C § 103 (c)(1), subject matter developed by another person which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. U. S. publication 2004/0225271 A1 was published November 11, 2004, which is after the filing date of Applicant's present patent application. In addition, U.S. publication 2004/0225271 A1 is owned by Kimberly-Clark Worldwide, Inc. Proof of this is shown in the United States Patent and Trademark Office Notice of Recordation of Assignment Document dated October 24, 2003, #102448373A, a copy of which is attached herewith. Based upon the cited U.S. publication being owned by the same person, namely Kimberly-Clark Worldwide, Inc., this rejection should be withdrawn. Accordingly, claims 1 – 9 are patentably distinct over the known prior art and should be allowed at this time.

For the reasons stated above, it is respectfully submitted that original claims 1 - 9 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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The undersigned may be reached at: (920) 721-2455.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on December 7, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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